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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,867	08/22/2001	Joel Erwin Goldstein	06170 USA	9264

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AIR PRODUCTS AND CHEMICALS, INC.
PATENT DEPARTMENT
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EXAMINER

GUARRIELLO, JOHN J

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 06/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-3

Office Action Summary

Application No. 09/934867	Applicant(s) Goldstein et al.
Examiner John Guarriello	Group Art Unit 1791

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-21 is/are pending in the application.
- Of the above claim(s) 21 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-20 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 1/16/03, 8/22/2006
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

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DETAILED ACTION

Election/Restriction

15. Restriction to one of the following inventions is required under 35

U.S.C. 121:

- I. Claims 1-20, drawn to prepackaged wet wipe, classified in class 442, subclass 166.
- II. Claim 21, drawn to aqueous lotion composition, classified in class 424, subclass 402.

16. The inventions are distinct, each from the other because:

17. Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions I and II are not necessarily related because the composition of an aqueous lotion composition can exist as an independent invention as in the fragrance or cosmetic art and does not necessarily have to be part of the wet wipe..

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18. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

19. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

20. During a telephone conversation with Michael Leach on 6/3/2003 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-20. Affirmation of this election must be made by applicant in replying to this Office action. Claim 21, Group II is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112

21. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

22. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 3, it is not clear what is encompassed by the terms "and its derivatives" since the term derivatives is not clearly supported in the instant specification, page 4, line 22, or page 9 line 14. It is the Examiner's position that the term "substantially free" modifying "boric acid" in line 3 of this claim will be interpreted as less than 4 wt% boric acid solution.

In claim 3, line 2, it is not clear what is encompassed by the terms "or its derivatives" for the same reason given in claim 1.

In claim 11, line 6, it is not clear what the terms "and its derivatives" encompasses for the same reasons given in claim 1.

Claim Rejections - 35 USC § 102

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23. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 5, 7-15, are rejected under 35 U.S.C. 102(b) as being anticipated by Richards et al. 5,629,081.

Richards describes pre-moistened dispersible and biodegradable wet wipe which comprises a web of non-woven fibers contacted (corresponding to the claimed bonded) with polyvinyl alcohol, PVA, (corresponds to the claimed polymeric binder, (see abstract; column 2, lines 58-67). Richards describes an aqueous stabilized PVA emulsion or blend or combination thereof, (column 2, lines 62-64). Richards describes a aqueous lotion (corresponding the claimed water binding compound) containing about 0.1 to 0.9% by wt., of lotion of boric acid (corresponding to the claimed substantially free of boric acid), (column 2, lines 64-67). Richards describes PVA emulsions with an

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aqueous lotion solution with propylene glycol (corresponding to a humectant), and cocoamphodiacetate and polysorbate salts, (column 3, lines 5-19). It is the Examiner's position that the reference describes the essential limitations of the claimed invention. Claims lack novelty.

Claim Rejections - 35 USC § 103

25. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

26. Claim 3, 6, 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richards et al. 5,629,081 in view of Daniels et al. 4, 245,744.

Richards as above in paragraph # 24 above. Richards differs from the claimed invention because it is silent about the alkali metal salts of sulfate.

Daniels describes impregnated towelettes corresponding to a premoistened wet wipe of the claimed invention, (see abstract). Daniels

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describes impregnated with PVA and some boric acid and metal salts, (see abstract; column 5, lines 65-68; column 6, lines 1-10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Richards with the sulfate salts of Daniels motivated with the expectation that similar gelling action with PVA would be expected since the alkali bicarbonate salt of Richards is an alkali salt similar to the alkali salts of Daniels.

26. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose telephone number is 703-308-3209. The examiner can normally be reached on Monday to Friday from 8 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is 703-305-5408.

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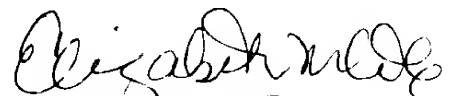
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



John J. Guarriello:gj

Patent Examiner

June 6, 2003



ELIZABETH M. COLE
PRIMARY EXAMINER